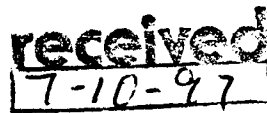


DEPARTMENT OF FISH AND GAME

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July 7, 1997

Mr. Ray Beittel
Executive Secretary
Rules Processing Team
Department of the Interior
Minerals Management Service
381 Elden Street
Mail Stop 4700
Herndon, Virginia 20170-4817

Dear Mr. Beittel:

Notice of Proposed Rulemaking: Oil Spill Financial
Responsibility for Offshore Facilities

Section 253.29 of the proposed MMS Rule requires owner/operators of offshore facilities utilizing insurance to demonstrate financial responsibility to have no more than four insurance layers, including the base layer. If the total amount of financial responsibility is \$35m or less, it must not be layered. Insurance for greater amounts may be layered in multiples of \$35m. Each insurer's participation in the covered insurance risk must be expressed as a percentage of a whole layer with no intermediate, horizontal layer permitted. A deductible may be used, however, it may only be applied to the base layer. Each insurance layer submitted as Offshore Financial Responsibility evidence must be presented on a separate Form MMS 1019.

We found that the insurance coverage accepted by Office of Oil Spill Prevention and Response (OSPR) for offshore facilities is typically established through layers. The first layer generally is in the amount of one million dollars per occurrence. This coverage is provided through a general liability policy. Thereafter, excess coverage is provided in several layers. The amount and number of layers is determined by the total amount of coverage required. Deductibles usually apply to the base layer. We require that either our California Endorsement for Facilities be signed by the underwriter or insurer, or the applicant provide a copy of the insurance policy providing pollution cover.

We have contacted representatives of the insurance industry to discuss the effect of the proposed MMS Rule on California offshore facility owner/operators, with specific concern for the requirement of limiting layers to no more than four layers in multiples of \$35m.

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We learned that insurance coverage is typically arranged with the primary or base layer holding the least amount of risk, additional coverage requirements are arranged through several layers of excess cover and determined by the total amount of insurance required. This method of layering keeps the premium at an affordable rate.

It is the view of the insurance industry representatives, that forcing the insurance market to provide coverage in this manner may cause a reduced amount of available insurance for that particular market. Furthermore, if the primary layer and subsequent layers of insurance are sold in blocks of \$35m, several underwriters within each block would absorb the risk. Therefore, there is little difference to excess cover layering.

The insurance representative also stated, that although it may be possible to obtain a primary layer of \$35m, the cost would be prohibitive, especially to smaller independent operators.

For this reason, we recommend that the Rule be amended to reflect layered coverage, without limitation to the amount per layer, or the number of coverage layers.

Thank you for the opportunity to provide comments to this proposal. If you have any questions or are in need of additional detail, please feel free to contact Mr. Carl Moore, of my staff, at the address above or by telephone number (916) 445-9326.

Sincerely,



Pete Bontadelli
Administrator
Office of Oil Spill Prevention
and Response

cc: Mr. Carl Moore, OSPR